REMARKS

I. Background

The present Amendment is in response to the Office Action mailed March 1, 2007. Claims 1-42 were pending in the application for consideration at the time of the mailing of the Office Action. Claims 1, 4, 10, 21, and 33 are currently amended. Thus, claims 1-42 are currently pending for consideration on the merits.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

II. Proposed Claim Amendments

Please amend the claims in the manner indicated above, where an underline represents new text, and strikeouts are used to indicate deleted text. The amendments to claims 1, 4, 10, 21, and 33 are fully supported by the specification and examples provided in the patent application as filed. Thus, Applicant respectfully submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested.

III. Rejection on the Merits

A. Rejections Under 35 U.S.C. § 103(a)

The Office Action rejects claims 1-9 under 35 U.S.C. § 103(a) as being unpatentable over *Goosen et al.* (U.S. 4,942,129) in view of *Struszczyk et al.* (U.S. 5,554,445). Applicant respectfully traverses the rejection because the combination of *Goosen* and *Struszczyk* does not

teach or suggest each and every element of the presently pending claims as amended, and thereby a *prima facie* case of obviousness has not been established.

Goosen teaches alginate gels that can include chitosan. *Struszczyk* teaches microcrystalline chitosan. Applicant respectfully submits that the combination of *Goosen* and *Struszczyk* does not teach or suggest each and every element of the presently claimed invention of independent claims 1 and 4. More particularly, the combination of *Goosen* and *Struszczyk* is completely devoid of any teaching or suggestion regarding a "gel agent consisting essentially of a chitosan salt" because *Goosen* teaches alginate gels that may include chitosan and *Struszczyk* teaches microcrystalline chitosan. As such, nothing in *Goosen* and *Struszczyk* teaches or suggests that the gel agent consists essentially of a chitosan salt. Thus, the combination of *Goosen* and *Struszczyk* does not teach or suggest each and every limitation of independent claims 1 and 4, and a *prima facie* case of obviousness has not been established.

Claims 2-3 and 5-9 depend from independent claims 1 and 4, and thereby incorporate the limitations thereof. As such, Applicant submits that claims 2-3 and 5-9 are allowable over the combination of *Goosen* and *Struszczyk* for at least the same reasons as discussed above with regard to claims 1 and 4. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejections to claims 1-9 under 35 U.S.C. § 103(a) relative to the combination of *Goosen* and *Struszczyk*.

The Office Action rejects claims 10-42 under 35 U.S.C. § 103(a) as being unpatentable over *Nies et al.* (EP 650999 A1) in view of *Hashimoto et al.* (U.S. 5,474,989). Applicant respectfully traverses the rejection because the combination of *Nies* and *Hashimoto* does not teach or suggest each and every element of the presently pending claims as amended, and thereby a *prima facie* case of obviousness has not been established.

Applicant respectfully objects to the characterization of *Nies* recited in the Office Action because there is nothing in *Nies* that teaches or suggests degrading chitosan, and thereby there is no motivation to make the combination of *Nies* and *Hashimoto*. More particularly, nothing in *Nies* teaches or suggests the following: "degrading chitosan in an aqueous acidic solution with enzymes" as recited in claim 10, "degrading chitosan hydrolytically" as recited in claim 21, or "degrading chitosan with an oxidizing agent" as recited in claim 33. While *Hashimoto* may teach chitosan degradation with enzymes, there is nothing in *Nies* that teaches or suggests degrading chitosan. Thus, there is no motivation or suggestion to make the combination of *Nies*

and *Hashimoto* because *Nies* does not provide any motivation of teaching or suggestion of degrading chitosan as in claims 10, 21, and 33.

Additionally, Applicant respectfully asserts that the combination of *Nies* and *Hashimoto* does not teach or suggest each and every element of the presently pending claims. More particularly, nothing in the combination of *Nies* and *Hashimoto* teaches or suggests "adding an aqueous basic solution" in order "to attain $4.0 \leq pH \leq 6.0$" in the gel, as recited in claims 10, 21, and 33. While *Nies* may teach or suggest the addition of salts, there is no indication that the proper salts are added to achieve the recited pH range, and *Hashimoto* does not provide such a teaching. Also, nothing in the combination of *Nies* and *Hashimoto* teaches or suggests that the "gel contains ≥ 0.5 wt % chitosan having an average molecular weight ≥ 10 kD, a polydispersity ≥ 2.0, deacetylation degree $\geq 65\%$ and wherein said complex has a water retention value $\geq 300\%$, $pH \leq 6.9$ and calcium (II) ions bound to the chitosan gel at a content ≥ 0.1 wt % relative to chitosan," as recited in claims 10, 21, and 33. Thus, the combination of *Nies* and *Hashimoto* does not teach or suggest each and every claim limitation recited in claims 10, 21, and 33, and thereby a *prima facie* case of obviousness has not been established.

Claims 11-20, 22-32, and 34-42 depend from independent claims 10, 21, or 33, and thereby incorporate the limitations thereof. As such, Applicant submits that claims 11-20, 22-32, and 34-42 are allowable over the combination of *Nies* and *Hashimoto* for at least the same reasons as discussed above with regard to claims 10, 21, and 33. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejections to claims 10-42 under 35 U.S.C. § 103(a) relative to the combination of *Nies* and *Hashimoto*.

SUMMARY

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner

provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

Applicant believes claims 1-42 are in allowable form as discussed above. Thus, Applicant respectfully requests reconsideration of the application and allowance of presently pending claims.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney by telephone at (801) 533-9800.

Dated this 1st day of June, 2007.

Respectfully submitted,

JONATHAN M. BENNS
Registration No. 56,983
WORKMAN NYDEGGER
Attorneys for Applicant
Customer No. 057360

FDR:JMB:ajb
AJB0000000700V001